Gateway Determination

***Planning proposal (Department Ref: PP-2021-6242)**: for the comprehensive review of the Willoughby Local Environmental Plan (LEP) 2012 to establish planning controls to deliver the vision and objectives of the Local Strategic Planning Statement (LSPS), implement recommendations of strategic planning studies and update the provisions in the WLEP2012.*

I, the A/Executive Director, Eastern Harbour City at the Department of Planning, Industry and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Willoughby Local Environmental Plan (LEP) 2012 to prepare a new Comprehensive Willoughby Local Environmental Plan (LEP) to deliver the objectives of the Willoughby LSPS, implement the local strategies and update the provisions of the plan, should proceed subject to the following conditions:

1. Prior to community consultation, the planning proposal is to be updated and amended to address the following:

(a) Department's Employment Zones Reform Framework

(i) Include an advisory note referencing the Employment Zones Reform Framework and noting the proposed translation of employment zones as it relates to the proposed amendments. Include a table within the planning proposal that clearly demonstrates the information required in the table template for changes within an industrial or business zone for each of the following options:

a) the rezoning of land;
b) the amendment or introduction of a local provision;
c) Schedule 1 Additional Permitted Uses; and
d) for changes to the land use table.

(b) Section 9.1 Directions

(i) Provide further discussion and address consistency with:

a) *2.1 Environmental protection zones* to include the location of land that may be protected or affected as a result of the proposed changes.

b) *2.2 Coastal management* in relation to the land to be rezoned from IN2 to E2 at 168-170 Epping Road.

c) *3.1 Residential zones* to provide a quantitative analysis (where possible) in relation to housing diversity and supply for the changes to FSR in the R2 Zone to indicate, as follows:

(i) the number of lots affected by the rezoning or amendment to the development controls; and

(ii) the number of dwelling approvals for the existing control in the past five years.

d) *3.4 Integrating land use and transport* to provide discussion on how the requirements of this direction are informed by the Willoughby Integrated Transport Strategy.

e) *3.5 Development Near Regulated Airports and Defence Airfields* to address its relevance to the height of buildings in the Chatswood CBD Strategy and requirements for consultation.

f) Provide comment to address consistency with:

(i) *2.6 Remediation of contaminated land*, and

(ii) *7.11 Implementation of St Leonards and Crows Nest 2036 Plan*.

g) Remove reference to revoked Section 9.1 Ministerial Directions and include any new directions.

(c) State Environmental Planning Policies

(i) Provide further comment to address consistency with the following:

a) SEPP No 19 Bushland in Urban Areas to discuss any proposed changes affecting bushland areas such as Middle Harbour and land adjoining the Lane Cove River.

b) SREP (Sydney Harbour Catchment) 2005 to include the location of land that may be protected, enhanced or affected as a result of any proposed changes, and reference to SREP.

c) Exempt and Complying SEPP (Codes SEPP) in relation to the changes proposed and:

i. update the statement that detached dwellings are only permitted on corner lots as the Codes SEPP permits detached dual occupancies on lots other than corner lots;

ii. amend the statement that subdivision of attached dual occupancies will be required to have both street frontages to reflect that Part 6 of the Codes SEPP allows Torrens Title subdivision of dual occupancies that have been approved under Part 3B of the SEPP;

iii. retain dual occupancies in a battle-axe configuration as permitted with consent under Council's LEP. As this type of development is not complying development under the Codes SEPP, it should be subject to a merit-based assessment as part of a development application; and

iv. remove changes to signage lead in and removal times as the Codes SEPP will override the LEP.

d) SEPP (Housing) 2021;

e) Draft SEPP (Design and Place) 2021;

f) Include advisory note of the commencement of the Consolidated SEPPs in March 2022; and

g) Remove references to repealed SEPPs.

(d) Include an assessment of the proposal against the relevant priorities and actions of the Council endorsed Willoughby Local Housing Strategy.

(e) Update the planning proposal to align with all the areas of change under the St Leonards Crows Nest 2036 Plan and include the land to the north of Chandos Street.

(f) Update the objectives and intended outcomes of the planning proposal to include a concise summary of the proposal upfront.

(g) Clarify throughout the planning proposal whether the increase to FSR from 1.5:1 to 2:1 in IN2 Light Industrial zone for sites greater than 1,000m^2 will apply to land in Lane Cove North, as well as Artarmon and East Chatswood.

(h) Provide discussion on the impacts of the proposal on the capacity of the local road network and how it will be managed for the proposed uplift in FSR of 1.5:1 to 2:1 for land zoned IN2 Light Industrial.

(i) Include an advisory note that the draft clauses (in Council's tracked changes attachment) are indicative only and will be subject to drafting by Parliamentary Counsel as part of the drafting of the final LEP should the planning proposal proceed to finalisation.

(j) Include all strategies and studies as attachments upfront in the planning proposal for public exhibition.

(k) Include a list of planning proposals that are running concurrently to this planning proposal.

(l) Update the proposed affordable housing provision rates for the areas it applies to align with the feasibility findings of the Affordable Housing Feasibility Report.

(m) Align the proposed clause for Urban Heat provisions with Clause 6.12 Urban Heat in the Cumberland LEP 2021 (in Council's track changes attachment) and provide a plain English explanation. Remove references to the proposed definitions of 'urban heat' and 'urban heat island effect'.

(n) Consider alternative mechanisms in implementing the proposed GFA map provisions for R2 zones outside of heritage conservation areas.

(o) Remove 'pet-day care' as a stand-alone permitted use and include as 'animal boarding or training establishment'.

(p) For the reclassification of land from 'community' to 'operational' at Eastern Valley Way, Northbridge:

    (i) Include the Information Checklist for Proposals to Classify or Reclassify Public Land Through an LEP in the Department's Practice Note PN 16-001 Classification and reclassification of public land through a local environmental plan; and

(ii) Provide title documentation relating to this site including the nature of the interests being discharged.

(q) update the planning proposal to reflect the changes to the LEP as a result of the planning proposal for 1A-29 Bowen Street and 6-18 Moriarty Road, Chatswood.

(r) include an updated project timeline based on the issuing of this Gateway determination.

2. Council is to submit the digital mapping for the Comprehensive LEP planning proposal in the spatial viewer for approval/agreement of the Department prior to the public exhibition.

3. Prior to public exhibition, consultation is required with the Commonwealth Department of Infrastructure, Transport, Regional Development and Communications (DTIRDC) to comply with Section 9.1 Direction 3.5 Development Near Regulated Airports and Defence Airfields.

4. Consultation is required with the following public authorities:

- Transport for NSW
- Greater Sydney Commission/Greater Cities Commission
- Environment, Energy and Science (EES)
- Sydney Water
- Department of Health
- Department of Education – SINSW
- Department of Premier and Cabinet – Heritage for NSW
- Civil Aviation Safety Authority (CASA)
- Sydney Airport Corporation Limited (SACL)
- DPE - Crown land NSW
- Ausgrid
- Neighbouring local government areas
    - North Sydney Council
    - Lane Cove Council
    - Ku-ring-gai Council
    - Ryde Council
    - Mosman Council
    - Northern Beaches Council.

Each public authority/organisation is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal.

5. Prior to finalisation, Council should undertake an assessment of any land proposed to be rezoned from non-residential to residential uses in accordance with the requirements of Section 9.1 Direction 2.6 – Remediation of Contaminated Land.

6. Council must conduct a public hearing for the proposed reclassification of land under the *Local Government Act 1993*. Council must provide the community with an additional opportunity to present to an independent person after Council's planning proposal report has gone on exhibition.

7. The planning proposal should be made available for community consultation for a minimum of 28 days.

8. The planning proposal must be exhibited **3 months** from the date of the Gateway determination.

9. The planning proposal must be reported to council for a final recommendation **12 months** from the date of the Gateway determination.

10. The time frame for completing the LEP is to be **18 months** from the date of the Gateway determination.

11. Given the planning proposal is a comprehensive LEP Council should not be authorised to be the local plan-making authority to make this plan.

Dated 24th day of December 2021.



David McNamara
A/Executive Director,
Eastern Harbour City
Department of Planning, Industry and Environment

Delegate of the Minister for Planning